

Message Text

UNCLASSIFIED

PAGE 01 USNATO 05760 01 OF 04 071035Z
ACTION EUR-12

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P 070947Z JUN 78

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UNCLAS SECTION 01 OF 04 USNATO 05760

PARIS FOR USOECD

E. O. 11652: N/A
TAGS: AORG, NATO
SUBJECT: NATO PENSION SCHEME

REF: USNATO 5529, PARA 3 (DTG 311438Z MAY 78)

1. AN AD HOC WORKING GROUP OF GOVERNMENT EXPERTS AND
DELEGATION REPRESENTATIVES MET JUNE 1 UNDER
CHAIRMANSHIP OF MR. FONTAINE, BELGIAN PENSION EXPERT,
TO ADVISE WHETHER

BEGIN QUOTE:

(A) VALIDATION OF PERIODS OF EMPLOYMENT IN THE SERVICE
OF THE ORGANIZATION PRIOR TO ACQUISITION OF INTERNATIONAL
STATUS WAS PERMISSIBLE IN ACCORDANCE WITH THE PROVISIONS
OF ARTICLE 4.1(II) OF THE PENSION SCHEME RULES;

(B) VALIDATION OF SUCH SERVICE, IF PERMISSIBLE, COULD BE
REGARDED AS A QUESTION ARISING ONLY IN THE CONTEXT OF THE
NORTH ATLANTIC TREATY ORGANIZATION AND THUS NOT REQUIRING,
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 USNATO 05760 01 OF 04 071035Z

FOR ITS RESOLUTION, THE COORDINATION PRESCRIBED BY
ARTICLE 51 OF THE PENSION SCHEME RULES;

(C) VALIDATION OF SUCH SERVICE, IF PERMISSIBLE, SHOULD BE
OFFERED ON THE CONDITIONS PROPOSED IN PARAGRAPH 4 OF
BC-D(78)20/MBC-M(78)93; END QUOTE.

2. THE WORKING GROUP WILL MEET AGAIN JUNE 12 TO CONTINUE ITS DISCUSSIONS TO FIND THE CORRECT SOLUTION TO THE ABOVE QUESTIONS. THE DRAFT REPORT OF THE WORKING GROUP AND ALTERNATIVES TO BE STUDIED FOLLOW:
BEGIN TEXT:

- NATO PENSION SCHEME - VALIDATION OF PAST SERVICE
- DRAFT REPORT BY THE AD HOC GROUP

1. IN RESPONSE TO THE REQUEST OF THE CIVIL AND MILITARY BUDGET COMMITTEES RECORDED IN BC-R(78)15/MBC-R(78)27, ITEM II, THE AD HOC GROUP PRESENTS BELOW THE CONSIDERATIONS AND CONCLUSIONS IT HAS DRAWN FROM EXAMINATION OF THE FACTS AND PROPOSALS SUBMITTED BY THE DIRECTOR OF MANAGEMENT, NATO INTERNATIONAL STAFF, IN DOCUMENTS BC-D(78)20/MBC-M(78)93, BC-D(78)30/MBC-M(78)128 AND BC-D(78)31/MBC-M(78)133.

DEFINITION OF SERVICE CONFERRING ENTITLEMENT TO BENEFITS

2. THE AD HOC GROUP:

- CONSIDERING THAT, BY VIRTUE OF ARTICLE 4 OF THE PENSION SCHEME RULES, ENTITLEMENT TO BENEFITS UNDER THE RULES SHALL BE DETERMINED BY THE TOTAL OF THE PERIODS ACTUALLY SERVED IN THE ORGANIZATIONS LISTED IN UNCLASSIFIED

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PAGE 03 USNATO 05760 01 OF 04 071035Z

ARTICLE 1.1 OF THE RULES;

- CONSIDERING THAT, BY VIRTUE OF PARAGRAPH 4.1/1(I) OF THE INSTRUCTIONS IMPLEMENTING THE RULES, SUCH SERVICE MUST HAVE BEEN COMPLETED UNDER AN APPOINTMENT ISSUED BY THE ORGANIZATION OR BY THE PROVISIONAL COMMITTEE OR SECRETARIAT FROM WHICH THE ORGANIZATION EMANATED;

- CONSIDERING THAT, BY VIRTUE OF PARAGRAPH 4.1/2(II) OF THE INSTRUCTIONS IMPLEMENTING THE RULES, SUCH SERVICE MUST, INTER ALIA, HAVE BEEN PERFORMED ON THE PREMISES AND UNDER THE CONTROL AND TO THE INSTRUCTIONS OF THE ORGANIZATION, ACCORDING TO THE HOURS OF WORK APPLYING TO THE WHOLE OF ITS STAFF;

- CONSIDERING THAT THE NORTH ATLANTIC TREATY ORGANIZATION HAS, BY EARLIER PRIOR OR RETROACTIVE DECISION ON THE EFFECTIVE DATE OF THE INTERNATIONAL FINANCING TO BE ACCORDED TO EACH OF ITS COMPONENT INSTITUTIONS, MADE THIS DATE EITHER COINCIDENT WITH OR SUBSEQUENT TO THE DATE OF THE LATTER'S TRUE ACTIVATION (FOOTNOTE 1) AND HAS THEREBY DEFINED THE DATE FROM

WHICH IT FORMALLY RECOGNIZES EACH OF THE INSTITUTIONS
AS ONE OF ITS COMPONENTS, IRRESPECTIVE OF THE FACT THAT
THE ORGANIZATIONAL FRAMEWORK OR MISSIONS OF THE
INSTITUTIONS MAY HAVE REMAINED THE SAME AS UNDER A
PRECEDING REGIME OF NATIONAL OR MULTILATERAL FINANCING
(FOOTNOTE 2),

IS OF THE OPINION THAT THE PERIODS OF SERVICE CONFERRING
ENTITLEMENT TO BENEFITS IN ACCORDANCE WITH ARTICLE 4
OF THE PENSION SCHEME RULES SHOULD IN NO CASE PRECEDE

UNCLASSIFIED

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PAGE 01 USNATO 05760 02 OF 04 071042Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
NSAE-00 PA-02 SS-15 SP-02 ICA-20 TRSE-00 IO-14
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P 070947Z JUN 78

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UNCLAS SECTION 02 OF 04 USNATO 05760

THE EFFECTIVE DATE OF INTERNATIONAL FINANCING OF THE
ORGANIZATIONS - , IN THE CASE OF THE NORTH ATLANTIC
TREATY ORGANIZATION, OF ITS COMPONENT INSTITUTIONS -
MENTIONED IN ARTICLE 1.1 OF THE RULES.

CONDITIONS OF VALIDATION OF SERVICE PERFORMED IN ANY
OTHER CAPACITY PRIOR TO PERMANENT APPOINTMENT

3. THE AD HOC GROUP:

- CONSIDERING THAT, BY VIRTUE OF ARTICLE 5.5(II) OF
THE PENSION SCHEME RULES, ENTITLEMENT TO BENEFIT UNDER
THE RULES FOR PERIODS SERVED IN ANY OTHER CAPACITY PRIOR
TO PERMANENT APPOINTMENT ACCORDING TO THE PROVISIONS
OF ARTICLE 4.1(II) OF THE RULES IS CONDITIONAL, INTER
ALIA, ON THE ORGANIZATION'S GIVING ITS AGREEMENT;

- CONSIDERING THAT (SOME) MEMBER GOVERNMENTS HAVE
INDICATED THAT THEY ARE NOT DISPOSED TO ALLOW

VALIDATION OF SERVICE IN ANY OTHER CAPACITY PRIOR TO
PERMANENT APPOINTMENT IN RESPECT OF PERIODS FOR WHICH
THEY HAVE CONTRIBUTED, THROUGH THE ORGANIZATION'S
BUDGET, TO THE CONSTITUTION OF RETIREMENT PENSION
UNCLASSIFIED

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PAGE 02 USNATO 05760 02 OF 04 071042Z

BENEFITS UNDER A NATIONAL SYSTEM OF SOCIAL SECURITY,
UNLESS THEIR CONTRIBUTIONS ARE REIMBURSED FOR SUCH
PERIODS;

- RECOGNIZING THAT BILATERAL AGREEMENTS WITH NATIONAL
SYSTEMS OF SOCIAL SECURITY PERMITTING RECUPERATION OF
SUCH CONTRIBUTIONS DO NOT EXIST;

- RECOGNIZING THAT THE PENSION SCHEME RULES NEITHER
EXCLUDE NOR AUTHORIZE THE CUMULATION OF A PENSION
ACCORDED PURSUANT TO THE RULES AND A PENSION PAID FROM
A NATIONAL SYSTEM OF SOCIAL SECURITY AS A RESULT OF
MEMBER GOVERNMENTS' CONTRIBUTIONS FOR THE SAME PERIODS
OF SERVICE IN THE ORGANIZATION PRIOR TO PERMANENT
APPOINTMENT, BUT THAT THE CHARGE TO BE LEVIED ON THE
STAFF MEMBER FOR VALIDATION OF SUCH PERIODS OF SERVICE
IN ACCORDANCE WITH ARTICLE 5.5(III) OF THE PENSION
SCHEME RULES IS INSUFFICIENT TO GUARANTEE RECOVERY OF
MEMBER GOVERNMENTS' CONTRIBUTIONS TO THE CONSTITUTION
OF RETIREMENT PENSION BENEFITS UNDER A NATIONAL SYSTEM
OF SOCIAL SECURITY FOR SUCH PERIODS,

IS OF THE OPINION THAT AN INSTRUCTION SHOULD BE ISSUED
IN IMPLEMENTATION OF ARTICLE 5.5(III) OF THE PENSION
SCHEME RULES TO STIPULATE THAT:

- ALTERNATIVE A (SEE NOTES AT APPENDIX)

THE ORGANIZATION SHALL MAKE ITS AGREEMENT CONDITIONAL
ON THE STAFF MEMBER'S CONSENTING TO DEDUCTION FROM
THE PENSION ACCORDED PURSUANT TO THE RULES OF THAT
AMOUNT OF ANY RETIREMENT PENSION RECEIVED FROM A
NATIONAL SYSTEM OF SOCIAL SECURITY WHICH THE LATTER
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PAGE 03 USNATO 05760 02 OF 04 071042Z

CERTIFIES AS ATTRIBUTABLE TO THE PERIOD OR PERIODS
COVERED BY THE ORGANIZATION'S CONTRIBUTION TO THE
RETIREMENT PENSION.

- ALTERNATIVE B(1) (SEE NOTES AT APPENDIX)

THE ORGANIZATION SHALL EXCLUDE AS INELIGIBLE FOR
VALIDATION ANY PERIODS OF SERVICE PRIOR TO PERMANENT
APPOINTMENT IN RESPECT OF WHICH IT HAS CONTRIBUTED TO
THE CONSTITUTION OF RETIREMENT PENSION BENEFITS UNDER
A NATIONAL SYSTEM OF SOCIAL SECURITY.

- ALTERNATIVE B(2) (SEE NOTES AT APPENDIX)

THE ORGANIZATION SHALL REFUSE TO VALIDATE ANY PERIODS
OF SERVICE PRIOR TO PERMANENT APPOINTMENT IF, BEGIN
BRACKET AT THE TIME OF PERMANENT APPOINTMENT END
BRACKET BEGIN BRACKET AT EXPIRY OF THE OPTION PERIOD
DURING WHICH THE REQUEST FOR VALIDATION MUST BE
SUBMITTED IN ACCORDANCE WITH ARTICLE 5.5(I) OF THE
RULES (FOOTNOTE 3) END BRACKET, THE STAFF MEMBER HAS
ESTABLISHED DEFINITIVE ENTITLEMENT TO RETIREMENT
PENSION BENEFITS UNDER A NATIONAL SYSTEM OF SOCIAL
SECURITY BEGIN BRACKET WHOLLY END BRACKET BEGIN BRACKET
OR END BRACKET BEGIN BRACKET PARTIALLY END BRACKET AS
A RESULT OF THE ORGANIZATION'S CONTRIBUTION TO
CONSTITUTION OF THESE BENEFITS.
PROVISIONAL REQUESTS FOR VALIDATION OF SERVICE UNDER THE
PROVISIONS OF ARTICLE 4.1(II) OF THE PENSION SCHEME RULES

4. THE AD HOC GROUP:

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PAGE 01 USNATO 05760 03 OF 04 071049Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
NSAE-00 PA-02 SS-15 SP-02 ICA-20 TRSE-00 IO-14
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P 070947Z JUN 78

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TO SECSTATE WASHDC PRIORITY 2133
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INFO AMEMBASSY PARIS

UNCLAS SECTION 03 OF 04 USNATO 05760

- IS OF THE OPINION THAT, IN THE ABSENCE OF FINAL
DECISION ON THE ISSUES RAISED IN PARAGRAPHS 2 AND 3
ABOVE BY A DATE PERMITTING ALL STAFF MEMBERS CONCERNED

TO BE DULY INFORMED, BEFORE 30TH JUNE, 1978, OF THE CONDITIONS OF VALIDATION OF SERVICE UNDER ARTICLE 4.1(II) OF THE PENSION SCHEME RULES, THE INTENTION DECLARED BY THE DIRECTOR OF MANAGEMENT, INTERNATIONAL STAFF, IN PARAGRAPH 4 OF BC-D(78)31/MBC-M(78)133 TO ACCEPT PROVISIONAL REQUESTS FOR VALIDATION OF SUCH SERVICE SHOULD BE ENDORSED.

FOOTNOTE 1 - SEE ANNEX I TO BC-D(78)30/MBC-M(78)128

FOOTNOTE 2 - SEE BC-D(78)20/MBC-M(78)93, PARAGRAPH 2(A)

FOOTNOTE 3 - OR AT 30TH JUNE, 1978, FOR STAFF OF THE

- NORTH ATLANTIC TREATY ORGANIZATION HOLDING
 - PERMANENT APPOINTMENTS ON 31ST DECEMBER, 1977
 - (SEE ARTICLE 44 OF THE PENSION SCHEME RULES)
 - APPENDIX TO DRAFT REPORT
-
- ADVANTAGES AND DISADVANTAGES OF THE ALTERNATIVES
 - LISTED IN PARAGRAH 3 OF THE ANNEX
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PAGE 02 USNATO 05760 03 OF 04 071049Z

ALTERNATIVE A:

- HAS THE FOLLOWING ADVANTAGES:
-
- (1) IT DOES NOT IMPEDE OR RESTRICT VALIDATION OF PERIODS OF SERVICE PRIOR TO PERMANENT APPOINTMENT AS PERMITTED BY ARTICLES 4.1(II) AND 44.4 OF THE RULES;
 - (2) IT IS AN INTERPRETATION OF THE DISCRETION ACCORDED TO THE ORGANIZATION BY ARTICLE 5.5(II) OF THE RULES WHICH ENABLES THE FULLEST EFFECT TO BE GIVEN TO ALL RELEVANT PROVISIONS OF THE RULES WHILE OVERCOMING THE OBJECTIONS OF GOVERNMENTS - NOT MET BY THE PRESENT WORDING OF THE RULES - TO ASSUMING, VIA ACCEPTANCE OF VALIDATION AT A FAVORABLE RATE FOR THE STAFF MEMBER, ADDITIONAL BUDGETARY LIABILITY FOR SUBSTANTIAL END-OF-CAREER RETIREMENT PENSION COVER DUPLICATING OTHER PENSION COVER FOR THE CONSTITUTION OF WHICH THEY HAVE PAID IN THE PAST IN DUE EXECUTION OF EARLIER CONTRACTS WITH THE STAFF MEMBER;
 - (3) IT REPRESENTS A REAL, AS OPPOSED TO A THEORETICAL MEASURE, IN THAT DEDUCTION OCCURS ONLY IN CASE A RETIREMENT PENSION FROM A NATIONAL SYSTEM OF SOCIAL SECURITY IS ACTUALLY PAID TO A STAFF MEMBER.
-
- HAS THE FOLLOWING DISADVANTAGES:

- (1) IT DOES NOT ABSOLUTELY GUARANTEE RECOVERY OF THE MEMBER GOVERNMENTS' CONTRIBUTIONS TO RETIREMENT PENSION BENEFITS UNDER A NATIONAL SYSTEM OF SOCIAL SECURITY IN CASES WHERE THE TOTAL CONTRIBUTIONS FROM ALL UNCLASSIFIED

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PAGE 03 USNATO 05760 03 OF 04 071049Z

SOURCES TO THE SYSTEM ARE NOT SUFFICIENT TO ESTABLISH DEFINITIVE ENTITLEMENT TO A RETIREMENT PENSION;

- (2) IT TENDS TO DISCRIMINATE AGAINST STAFF MEMBERS WHO, BY VIRTUE OF VOLUNTARY CONTRIBUTIONS TO A NATIONAL SYSTEM OF SOCIAL SECURITY, HAVE ESTABLISHED DEFINITIVE ENTITLEMENT TO A RETIREMENT PENSION UNDER THE SYSTEM; A RISK OF ADDITIONAL DISCRIMINATION AGAINST SUCH STAFF MEMBERS IS INCURRED IN CASES WHERE THE LATTER MAY HAVE DEPLETED THEIR PROVIDENT FUND HOLDINGS FOR THE PURPOSE OF SUCH VOLUNTARY CONTRIBUTIONS TO A POINT THAT THEY MAY FACE A PERIOD OF INCREASED FINANCIAL STRINGENCY IN MEETING THE COSTS OF VALIDATION OF PAST SERVICE UNDER THE PENSION SCHEME IN ACCORDANCE WITH THE CONDITIONS LAID DOWN IN THE RULES;

- (3) ADMINISTRATIVE IMPLEMENTATION OF THE MEASURE MAY BE RATHER COMPLEX, INVOLVING CONTINUOUS CORRESPONDENCE AND VERIFICATION WITH NATIONAL SYSTEMS OF SOCIAL SECURITY, WHICH MUST ALSO CONSENT TO UNDERTAKE THE REQUISITE DETAILED ANALYSIS OF INDIVIDUAL DOSSIERS.

ALTERNATIVE B(1):

- HAS THE FOLLOWING ADVANTAGES:

- (1) IT DEFINITELY AVOIDS THE RISK OF MEMBER GOVERNMENTS' INCURRING SUBSTANTIAL EXTRA BUDGETARY LIABILITY FOR RETIREMENT PENSION COVER RELATING TO PERIODS OF SERVICE IN RESPECT OF WHICH THEY HAVE DULY

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PAGE 01 USNATO 05760 04 OF 04 071055Z

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 PM-05 INR-10 L-03 ACDA-12
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UNCLAS SECTION 04 OF 04 USNATO 05760

DISCHARGED THEIR RESPONSIBILITIES IN THE PAST, IN THE
FRAMEWORK OF PRECEDING CONTRACTUAL RELATIONSHIPS WITH
THE STAFF MEMBER;

- (2) IT REPRESENTS A ONE-TIME AND FINAL DETERMINATION
OF ENTITLEMENT ARISING FROM PERIODS OF SERVICE
ACCOMPLISHED PRIOR TO PERMANENT APPOINTMENT,
ADMINISTRATIVELY SIMPLE TO EFFECT SINCE ALL NECESSARY
DATA ARE IN THE POSSESSION OF THE ORGANIZATION;

- HAS THE FOLLOWING DISADVANTAGES:

- (1) AS AN INTERPRETATION OF THE DISCRETION
ACCORDED TO THE ORGANIZATION BY ARTICLE 5.5(II) OF THE
RULES, IT REPRESENTS AN UNDOUBTED RESTRICTION OF THE
EFFECT TO BE GIVEN TO THE EXPLICIT INTENT AND PROVISION
OF ARTICLE 4.1 THAT ENTITLEMENT TO BENEFIT UNDER THE
RULES SHALL BE DETERMINED BY THE TOTAL OF THE PERIODS
ACTUALLY SERVED IN THE COORDINATED ORGANIZATIONS;

- (2) ITS APPLICATION MAY HAVE THE EFFECT OF
DEPRIVING A STAFF MEMBER OF ENTITLEMENT TO A RETIREMENT
PENSION UNDER THE PROVISIONS OF ARTICLE 7 OF THE RULES,
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UNCLASSIFIED

PAGE 02 USNATO 05760 04 OF 04 071055Z

WHICH PRESCRIBE AS A CONDITION OF ENTITLEMENT A MINIMUM
OF TEN YEARS' ACTUAL SERVICE WITHIN THE MEANING OF
ARTICLE 4, WHILE AT THE SAME TIME LEAVING THE STAFF
MEMBER BEREFT OF ANY DEFINITIVE ENTITLEMENT TO A
RETIREMENT PENSION UNDER A NATIONAL SYSTEM OF SOCIAL
SECURITY FOR REASONS OF INSUFFICIENT CONTRIBUTION;
IN SUCH CASES, THE MEMBER GOVERNMENTS' PREVIOUS
CONTRIBUTIONS TO A RETIREMENT PENSION UNDER THE
NATIONAL SYSTEM WOULD BE TO NO AVAIL (CF. DISADVANTAGE
(1) OF ALTERNATIVE A ABOVE).

ALTERNATIVE B(2)

- HAS THE FOLLOWING ADVANTAGES:

- (1) AS FOR ALTERNATIVE B(1), ADVANTAGE (1)

- (2) AS FOR ALTERNATIVE B(1), ADVANTAGE (2)

- HAS THE FOLLOWING DISADVANTAGES:

- (1) IT REPRESENTS AN EXACERBATION OF THE RESTRICTIVE EFFECT EVOKED UNDER DISADVANTAGE (1) OF ALTERNATIVE B(1);

- (2) AS FOR ALTERNATIVE B(1), DISADVANTAGE (2), BUT WITHOUT THE ADDED DISADVANTAGE OF THE RISK DEPRIVING A STAFF MEMBER OF RETIREMENT PENSION COVER UNDER A NATIONAL SYSTEM OF SOCIAL SECURITY. END TEXT.

3. AT OPENING OF MEETING, NATO DIRECTOR OF ADMINISTRATION ADVISED THERE WERE 36 DIFFERENT AGENCIES WORKING UNDER NATO, AND SOME WERE GOVERNED BY OTTAWA AGREEMENT AND OTHERS BY THE STATUS OF FORCES AGREEMENT. THE QUESTION OF VALIDATING SERVICE FOR LOCAL WAGE SCALE UNCLASSIFIED

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PAGE 03 USNATO 05760 04 OF 04 071055Z

PERSONNEL NOT ONLY PERTAINED TO THE PAST, BUT TO THE FUTURE. AMONG MANY QUESTIONS DISCUSSED WAS DOUBLE ENTITLEMENT - NATIONAL CIVIL SERVICE AND PENSION SCHEME. ONE GOVERNMENT FINANCED AN ORGANIZATION AND PAID THE EMPLOYER'S CONTRIBUTION TOWARD THE NATIONAL CIVIL SERVICE. WHEN THE ORGANIZATION GRANTED INTERNATIONAL STATUS, CONTRIBUTIONS WERE THEN INTERNATIONALLY FUNDED. IF THE EMPLOYEE WERE ALLOWED TO VALIDATE FOR THE PERIOD HE WORKED FOR THAT ORGANIZATION PRIOR TO ITS RECEIVING INTERNATIONAL STATUS, ONE GOVERNMENT WOULD HAVE CONTRIBUTED TWICE, I. E., TO NATIONAL SOCIAL SECURITY AND TO NATO PENSION SCHEME. US REP SAID USG COULD NOT ACCEPT DOUBLE ENTITLEMENT.

4. ACTION REQUESTED: MISSION REPS DO NOT HAVE REQUIRED EXPERTISE ON TECHNICAL ASPECTS OF THESE PENSION QUESTIONS. THEREFORE, A PENSION EXPERT IS REQUESTED TO STUDY THE TEXT OF THE DRAFT REPORT AND THE BASIC DOCUMENT (BC-D(78)20/MBC-M(78)93 - USNATO 04297) AND PROVIDE INSTRUCTIONS BY OPENING OF BUSINESS JUNE 12. BENNETT

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Secure: OPEN
Status: NATIVE
Subject: NATO PENSION SCHEME
TAGS: AORG, NATO
To: STATE DOD
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